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MORGANSTERN V. COMMONWEALTH.—Decided at Richmond, December 3, 1896.—*Riely, J.* :

1. CRIMINAL LAW.—*Indictment—Series of acts in one indictment—Keeping open a bar-room and selling liquor.* Where a statute, in defining one offence, has specified a series of acts, any one of which separately or all together may constitute the offence, and has prescribed the same penalty for the commission of one or all of the acts, the commission of any two or more of them may be alleged conjunctively in the same count of an indictment, and although each act may in itself constitute an offence under the statute, yet if they are all committed by the same person, at the same time and place, they are to be considered as parts of the same offence and collectively constitute a single offence ; and hence an indictment which charges the defendant with keeping open a bar-room and selling liquors therein at the same time and place, charges but one offence.

2. CRIMINAL LAW.—*Indictment—Conjunctive charge of several acts—Proof.* Where the several acts specified in the statute are conjunctively charged in the same count of an indictment, the proof of any one of them is sufficient to authorize a conviction, and where one or more of the acts are committed at one time, and other or the same acts are committed at another time, they may be charged in different counts of an indictment, and if proved, the defendant may be convicted of the several offences so committed on different occasions and punished for each offence.

3. OPENING BAR-ROOM AND SELLING LIQUOR ON SUNDAY.—*City ordinance on same subject—Case at bar.* In order that a city may be exempt from the operation of the statute forbidding the opening of a bar-room and selling liquor within certain hours (sec. 3804 of the Code), the police regulations and ordinances of the city must define the same offence and prescribe substantially the same punishment as has been done in the statute. The city of Richmond is not exempt from the operation of the statute because its ordinance on the subject is less comprehensive than the statute, in that the time during which the bar-room, &c., is to be kept closed is, under the ordinance, "every Sunday, during the whole day," while under the statute it is from 12 o'clock Saturday night until sunrise the succeeding Monday morning, and the ordinance forbids only the opening of the bar-room, &c., and not the sale of liquor, and prescribes only one penalty for keeping open the whole day, while the statute not only forbids the opening during the designated hours, but also the sale of liquor during those hours, and affixes a separate penalty for each sale of liquor during the prohibited time.

4. BAR-ROOM.—*Closing under sec. 3804 of Code—Regulating the sale of liquor.* The mere enclosure of the bar counter, while free access is permitted into the room in which liquors are dispensed, is not a compliance with sec. 3804 of the Code, which requires the bar-room to be closed within certain hours. The bar-room must be faithfully closed and all access to it cut off during the prohibited hours, except perhaps, to the casual entrance of the owner or his employee for some innocent and necessary purpose. The sale of liquor is not an absolute right, but one which the State has the right to regulate and supervise.

5. INDICTMENT FOR KEEPING OPEN BAR AND SELLING LIQUOR.—*Proof of either sufficient.* In the case at bar the defendant was indicted for keeping his bar-room open and selling liquor on Sunday. Proof of either act was sufficient to authorize a conviction.